LICENSES AND CONSUMER SERVICES LICENSE INSPECTOR'S REPORT

FILE: 13319 WARD: 2

APPLICANT: C & H, Inc.

DBA: U Garden Restaurant

ADDRESS: 2725 University Avenue SE, Minneapolis, MN 55414

TYPE OF LICENSE: On-Sale Liquor with Sunday Sales, Class B

DATE OF APPLICATION: September 7, 2012

INSPECTOR: Michele Harvet, 612-673-5484

PURPOSE OF APPLICATION: The applicant seeks approval of a new shareholder and an

amendment to their current license operating conditions.

NOTICE TO RESIDENTS: A public hearing is not required for this type of application.

But, a community meeting is appropriate to gather input

regarding the request to amend license conditions.

HISTORY OF LOCATION

U Garden Restaurant has been operating a restaurant at this location since 1993. In 1993, they were approved for an On-Sale Beer, Class E license. In 2004, they were approved for an On-Sale Wine with Strong Beer, Class E license. They upgraded to On-Sale Wine with Strong Beer, Class A in 2005. In 2008, they were approved for an On-Sale Liquor with Sunday Sales, Class A. They downgraded to On-Sale Liquor with Sunday Sales, Class B in 2010. Since 1993, they have been operating without violations.

STOCK PURCHASE

C & H, Inc. has a total of 100 shares in the corporation. On March 30, 2012, Tech Huy Ung sold his forty shares to Spencer Heang Ung for a certain monetary amount. Tech no longer owns any shares in C & H, Inc. Guek Eng Trann-Ung still owns 60 shares.

The previous and current corporate structures are listed below.

Previously Approved Corporate Structure:

<u>Name</u>	<u>D.O.B.</u>	<u>Title</u>	<u>Share</u>
Guek Eng Trann-Ung	9/7/49	Owner	60%
Tech Huy Ung	12/24/69	Owner	40%

Current Corporate Structure:

<u>Name</u>	<u>D.O.B.</u>	<u>Title</u>	<u>Share</u>
Guek Eng Trann-Ung	9/7/49	Partner	60%
Spencer Heang Ung	8/11/75	Partner	40%

MANAGER

The manager at U Garden Restaurant will be Spencer Ung. He has managed there since 1999.

POLICE REVIEW

Police Licensing and this Inspector have reviewed the documentation for this application. The applicant has provided appropriate documentation, proved adequate and legal funding for this transaction and has passed the criminal background check.

BUSINESS PLAN/OPERATIONS (applicable to this request)

When this licensee applied for their On-Sale Liquor license in April, 2008, certain license conditions were negotiated and approved by City Council. They are as follows:

- 1. U Garden will not build a bar area.
- 2. U Garden will not include hard liquor in any drink specials.
- 3. The establishment will comply with a minimum standard of gross sales revenue during each fiscal year from the sale of food and beverages not containing alcohol in an amount of not less than sixty (60) percent of its total gross revenue. The licensee will report this for the first three months after the upgrade is approved.
- 4. U Garden will not advertise hard liquor on the outside of their building.
- 5. U Garden will not advertise happy hour specials on its property viewable from the outside of the building, including happy hour special signs on its property outside.
- 6. With the exception of banquets, U Garden will end all drink specials before midnight. U Garden will also offer non-alcoholic beverage and food specials to compliment drink specials.
- 7. No media advertisement (including broadcast media and handbills) put out by U Garden will focus exclusively on alcohol.
- 8. With the exception of banquets, U Garden will not serve alcohol to an individual or a party without serving food.

The licensee is requesting to remove condition #8 in order to be competitive with other on-sale alcohol establishments in the area that do not have this restriction. MCO 362.395 requires that this type of establishment operate as a restaurant with gross annual sales of alcohol being no more than 40%. The licensee has reported gross annual alcohol sales at no more than 5% since 2008, exceeding the minimum requirement and showing that they are operating as a restaurant.

U Garden Restaurant will continue to operate in the same manner that they have been operating. They would like to provide their customers the flexibility to decide on their own what they want to drink, eat or both. They contend that the current provision limits their customers' choice to drink while other restaurants and bars within blocks do not have this provision.

COMMUNITY MEETING

A community meeting notice was emailed to Council Member Gordon's office, the Prospect Park-East River Road Improvement Association and Stadium Village Commercial Association on October 17, 2012. The meeting will be held at the Luxton Park Recreation Center on November 1, 2012 at 6:30pm.

RECOMMENDATION

The Licenses and Consumer Services Division recommends approving this application for a new shareholder and to remove condition #8 from the current license operating conditions.